

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #12	CCRB Case #: 201509224	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/20/2015 6:20 PM	Location of Incident: 148 North 1st Street; 90th Precinct stationhouse	18 Mo. SOL 4/20/2017	Precinct: 90
Date/Time CV Reported Tue, 10/27/2015 1:43 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/28/2015 1:43 PM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kenneth Durkin	01178	925228	NARCBBN
2. DT3 James Mccullough	3719	940443	NARCBBN
3. DT3 Jelson Goyco	02019	926897	NARCBBN
4. Officers			NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Steven Gansrow	02866	928345	NARCBBN
2. DT3 Lorne Kanover	01824	936842	NARCBBN
3. POM Carlos Alvarez	03203	927852	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jelson Goyco	Force: At 148 North 1st Street in Brooklyn, Det. Jelson Goyco used physical force against § 87(2)(b)	
B.DT3 James Mccullough	Force: At 148 North 1st Street in Brooklyn, Det. James Mccullough used physical force against § 87(2)(b)	
C. Officers	Force: At 148 North First Street in Brooklyn, officers used physical force against § 87(2)(b)	
D.SGT Kenneth Durkin	Abuse: At 148 North 1st Street in Brooklyn, Sgt. Kenneth Durkin threatened § 87(2)(b) with the use of force.	
E.DT3 Jelson Goyco	Discourtesy: At the 90th Precinct stationhouse, Det. Jelson Goyco spoke discourteously to § 87(2)(b)	

### Case Summary

On October 23, 2015, this complaint was reported to IAB on behalf of § 87(2)(b) and was subsequently transferred to the CCRB on October 28, 2015.

On October 20, 2015, at approximately 6:20 p.m., § 87(2)(b) was arrested by Detective Steven Gansrow and Detective Jelson Goyco, both assigned to Narcotics Borough Brooklyn North, for § 87(2)(b). § 87(2)(b) had been standing with two male friends, but both males ran when they saw the officers, and were not pursued by the officers. While affecting the arrest of § 87(2)(b), Det. Goyco punched § 87(2)(b) on the right side of his face (**Allegation A**). Det. James McCullough punched § 87(2)(b) in his ribs (**Allegation B**). Officers allegedly kicked § 87(2)(b) in the back of the head and kned § 87(2)(b) in the back (**Allegation C**). Sgt. Durkin allegedly threatened § 87(2)(b) with the use of a Taser (**Allegation D**). At the 90<sup>th</sup> Precinct stationhouse, Det. Goyco allegedly told § 87(2)(b) he had the right to shut the “fuck” up, and told § 87(2)(b) to go “fuck” himself (**Allegation E**).

§ 87(2)(b) was arrested and charged with § 87(2)(b) (02 Board Review).

§ 87(2)(g)

There is no video footage regarding this incident.

On February 2, 2016, this case was reassigned to Investigator Tessa Yesselman from Investigator Tiffany Dempsey following Inv. Dempsey’s departure from the agency.

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of March 1, 2016, § 87(2)(b) has not filed a Notice of Claim with the New York City Officer of the Comptroller (**17 Board Review**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint § 87(2)(b) has been party to (**05 Board Review**).
- Det. McCullough has been a member of the NYPD for 10 years, has had 12 previous complaints, including one case with a substantiated allegation of physical force (CCRB case no. 200901207). The Board did not recommend any discipline. The NYPD issued Command Discipline B.
- Det. Goyco has been a member of the NYPD for 15 years, and has had 23 previous allegations with no substantiations, including four allegations of physical force.
- Det. Gansrow has been a member of the NYPD for 14 years, and has had 18 previous allegations including two allegations of discourteous language, with four substantiations

(CCRB case no. 200917537) for abuse of authority and other misconduct. Det. Gansrow pled guilty, resulting in a loss of two vacation days.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

§ 87(2)(b) stated that while he was face down on the ground, the officers rotated being on top of him, taking turns. § 87(2)(b) stated that he felt hands on his ribs and chest, was kicked in the back of the head, and kned in his back. Because § 87(2)(b) was face down, he could not see which officer kned and kicked him **(07 Board Review)**. Det. McCullough acknowledged punching § 87(2)(b) in his upper body while § 87(2)(b) was on the ground and denied using any other force against § 87(2)(b) **(09 Board Review)**. § 87(2)(g)

§ 87(2)(b) could not see which officer kned and kicked him because he was face down **(07 Board Review)**. None of the officers interviewed acknowledging kneeling § 87(2)(b) or kicking him in his head, nor did they acknowledge seeing any other officer do so. Without a description of the subject officers, and because all of the officers interviewed denied taking these actions, the investigation was unable to determine the subjects of these allegations **(08 Board Review, 09 Board Review, 10 Board Review, 11 Board Review, 13 Board Review)**. § 87(2)(g)

§ 87(2)(b) stated that Sgt. Durkin threatened to Taser him while he was face down on the ground. § 87(2)(b) knew it was Sgt. Durkin because he recognized his voice from when Sgt. Durkin had initially stopped him and told him he was being arrested for § 87(2)(b). § 87(2)(b) described Sgt. Durkin as a white male in his mid 40's to 50's, 5'9" tall, with a heavy build, salt and pepper colored hair, and a goatee, which matches Sgt. Durkin's pedigree. In addition, Sgt. Durkin was the only officer interviewed who is trained to use a Taser. § 87(2)(g)

§ 87(2)(b) stated that while he was in the holding cells, he asked the attending cell officer if he could make a telephone call. The cell attendant told § 87(2)(b) that he would alert his arresting officer. § 87(2)(b) stated that the same officer who struck him in his head was the officer who came into the holding cell and used profanities while speaking with him. Det. Goyco acknowledged punching § 87(2)(b) in the head (see Allegation A). § 87(2)(g)

#### Allegations not pleaded

- § 87(2)(g)

**Allegation A -Force: At 148 North 1st Street in Brooklyn, Det. Jelson Goyco used physical force against § 87(2)(b)**

Det. Goyco and Det. Gansrow told § 87(2)(b) that he was going to be detained. § 87(2)(b) asked why and was told that the detectives had seen him, along with the two males that had fled, smoking and that someone needed to be arrested for it. § 87(2)(b) tried to get his work identification from his pocket to show the officers that he was employed, and to explain that he had not been smoking. Det. Gansrow attempted to handcuff § 87(2)(b) left wrist by pulling § 87(2)(b) left arm behind his back. The force with which Det. Gansrow pulled § 87(2)(b) arm caused § 87(2)(b) to lose his balance and stumble back in to Det. Gansrow. § 87(2)(b) left shoulder made contact with Det. Gansrow's right shoulder. Immediately after § 87(2)(b) stumbled into Det. Gansrow, Det. Goyco punched him in the right side of his face. § 87(2)(b) began bleeding from his mouth and nose and he tasted blood. § 87(2)(b) fell forward on to the ground and landed on his chest and left knee (**07 Board Review**).

§ 87(2)(b) was treated at § 87(2)(b), where he complained of being punched in the face. § 87(2)(b) was evaluated for pain to his lower back, left knee, back of the head, and an abrasion to his right forehead. The pre-hospital care report shows that § 87(2)(b) had a herniated disc, a torn left knee ligament, and a torn right rotator cuff (**Privileged Documents**).

§ 87(2)(b) arrest photograph shows an abrasion to his right forehead and swelling to his right eye and nose (**03 Board Review**). Photographs of § 87(2)(b) taken by his attorney, Gary Farrell, show blood on § 87(2)(b) clothing in the areas around his back, chest, and legs (**04 Board Review**).

Det. Goyco stated that when he exited his vehicle, he saw Det. Gansrow conversing with § 87(2)(b) and holding on to § 87(2)(b) hand, similar to how you would touch someone's hand when shaking hands. § 87(2)(b) was not handcuffed. Det. Goyco did not see § 87(2)(b) holding a cigarette or anything else in his hands. As Det. Goyco walked towards Det. Gansrow and § 87(2)(b) § 87(2)(b) turned his body and began to pull away from Det. Gansrow. Det. Goyco did not see § 87(2)(b) push Det. Gansrow. § 87(2)(b) stepped off of the sidewalk and in to the street. Det. Goyco believed that § 87(2)(b) was going to run from Det. Gansrow, and tackled § 87(2)(b) to the ground. Det. Goyco could not recall if Det. Gansrow had lost his grip on § 87(2)(b) arm before he tackled him to the ground. Both Det. Goyco and § 87(2)(b) fell to the ground. Seconds after falling to the ground, Det. Goyco struck § 87(2)(b) in his head with his hand, though he could not recall if it was an open or closed fist. He did this because § 87(2)(b) continued flailing his arms and kicking his legs and Det. Goyco believed that § 87(2)(b) was continuing to attempt to flee. Det. Goyco could not recall if § 87(2)(b)'s arms and /or legs ever made contact with his body. Det. Goyco struck § 87(2)(b) in his head because § 87(2)(b) head was closest to him. Det. Goyco did not see Sgt. Durkin on scene until after § 87(2)(b) was handcuffed (**11 Board Review**).

Det. Gansrow stated that he attempted to arrest § 87(2)(b) by taking his handcuffs out and grabbing § 87(2)(b) right arm. § 87(2)(b) did not have anything in his hands. § 87(2)(b) pulled his arm away from Det. Gansrow and pushed Det. Gansrow before Det. Gansrow could secure handcuffs on § 87(2)(b). Det. Gansrow stepped back as a result of the push, and § 87(2)(b) took

approximately three running steps before Det. Gansrow grabbed his arm again. Det. Goyco grabbed § 87(2)(b) shoulders and because of the momentum, Det. Gansrow, Det. Goyco and § 87(2)(b) all fell to the ground. Det. Gansrow did not see Det. Goyco strike § 87(2)(b). When § 87(2)(b) was picked up off of the ground, Det. Gansrow saw blood coming from § 87(2)(b) face. Det. Gansrow and did not know how § 87(2)(b) sustained the injuries which caused him to bleed (13 Board Review).

Det. Kanover stated that when he arrived to the incident location, he saw § 87(2)(b) in the street, running from Det. Goyco. Det. Goyco caught up to § 87(2)(b) and tackled him to the ground. No other officer assisted Det. Goyco in bringing § 87(2)(b) to the ground. Det. Kanover did not see any officer punch § 87(2)(b) while § 87(2)(b) was standing or on the ground (10 Board Review).

Sgt. Durkin stated that he, along with Det. Goyco, Det. Gansrow and Det. McCullough all brought § 87(2)(b) to the ground together by pushing him down in a tactical maneuver. Sgt. Durkin did not see Det. Goyco strike § 87(2)(b). Sgt. Durkin never lost sight of § 87(2)(b) (08 Board Review).

§ 87(2)(g)

Patrol Guide Procedure 203-11 permits officers to use the minimum force necessary when affecting an arrest (15 Board Review).

§ 87(2)(g)

**Allegation B -Force: At 148 North 1st Street in Brooklyn, Det. James McCullough used physical force against § 87(2)(b)**

§ 87(2)(b) was face down on the ground with his left arm handcuffed and behind his back. Because § 87(2)(b) was face down on the ground, he was not able to see what action each officer above him was taking. § 87(2)(b) stated that he felt “hands” on his ribs, but could not ascribe a specific action to the hands, nor could he assign the hands to a person (07 Board Review).

Det. McCullough stated that he punched § 87(2)(b) twice in the upper body area because he thought that § 87(2)(b) was pushing himself off of the ground in an attempt to flee from the officers (09 Board Review).

Patrol Guide Procedure 203-11 permits officers to use the minimum force necessary when arresting a perpetrator (15 Board Review).

§ 87(2)(g)

**Allegation C- Force: At 148 North 1st Street in Brooklyn, officers used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation D- Force: At 148 North 1st Street in Brooklyn, Sgt. Kenneth Durkin threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) stated that Sgt. Durkin threatened him with the use of force, stating that § 87(2)(b) was “lucky” he didn’t use his Taser against him and that he “should” have used his Taser against him.

Sgt. Durkin denied making either statement and further stated that even though he is trained to use a Taser, he did not have one on his person on the date of the incident (**08 Board Review**). All of the officers interviewed denied hearing Sgt. Durkin threaten § 87(2)(b) with the use of a Taser (**09 Board Review, 10 Board Review, 11 Board Review, 13 Board Review**). § 87(2)(g)

**Allegation E- Discourtesy: At the 90th Precinct stationhouse, Det. Jelson Goyco spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that while in the holding cell at the 90<sup>th</sup> Precinct stationhouse, he asked PO Alvarez, the cell attendant, if he could make a phone call. PO Alvarez responded that he would ask § 87(2)(b) arresting officer. Det. Goyco entered the holding cell area and asked § 87(2)(b) if he knew his rights. § 87(2)(b) responded that he did know his rights and Det. Goyco told § 87(2)(b) he had the right to shut the “fuck” up and told § 87(2)(b) to go “fuck” himself (**07 Board Review**).

The Prisoner Holding Pen Roster shows § 87(2)(b) and § 87(2)(b) were present in the holding cell at the time § 87(2)(b) was brought to the stationhouse (**01 Board Review**). § 87(2)(b) was unavailable for the investigation (**16 Board Review**).

In a telephone statement, § 87(2)(b) said that Det. Goyco brought § 87(2)(b) in to the holding cell. § 87(2)(b) was very bloody and yelling that the officers had beat him up. § 87(2)(b) asked Det. Goyco if he could make a phone call and Det. Goyco would not allow him to make a phone call. § 87(2)(b) was not able to recall a conversation about § 87(2)(b) rights, or exactly what Det. Goyco said to § 87(2)(b) but stated that Det. Goyco swore at § 87(2)(b) more than twice, and that officers routinely speak to civilians like they are “animals” (**12 Board Review**).

§ 87(2)(g)

Det. Goyco denied making these statements (**11 Board Review**) and, PO Alvarez denied hearing these statements (**14 Board Review**).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

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Squad: 12

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	<u>Lily Carayannis</u>	<u>March 1, 2016</u>
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date